IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.805 OF 2006

Hemant C. Shah ...Petitioner.

Versus

The State of Maharashtra
and Ors. ...Respondents.

Shri Parulekar i/b M/s Parulekar & Asso.for the Petitioner.

Shri R.M.Patne, A.G.P for Respondent No.1.

CORAM : S.C.DHARMADHIKARI,J.

DATE : 14th FEBRUARY, 2006.

P.C. :

1. This Petition challenges a show cause notice dated 4th January, 2006 by which the Tahsildar, Thane directs the petitioner to remove the structure; failing which action would be initiated under the Maharashtra Land Revenue Code, 1966. The Notice itself refers to Section 50(3) of the Maharashtra Land Revenue Code. Section 50 deals with removal of encroachments on the land vested in Government, provisions for penalty and other incidental matters that necessarily postulates satisfaction of the competent Authority that any encroachment has been made on the land which is vested in the Government.

2. The order passed by the Collector under Section 50 is subject to Appeal and Revision in accordance with the provisions of the Code. Further, the remedy to approach a Civil Court is always there, in case the final order is against the petitioner.

3. There is, therefore, no reason to entertain this Petition under Article 227 of the Constitution of India, at the stage at which the matter is pending before the Authorities exercising their powers under the Maharashtra Land Revenue Code. All contentions raised in the Petition are open for being urged before them. Petition is, therefore, dismissed. However, until the Authorities consider the reply of the petitioner forwarded through their Advocate dated 6th February, 2006 and afford the petitioner such opportunity to make good the same, as is permissible in law, the structure in question shall not be removed or demolished.

(S.C.DHARMADHIKARI,J.)